

US EPA ARCHIVE DOCUMENT

**STATEMENT OF MARIANNE LAMONT HORINKO
ASSISTANT ADMINISTRATOR
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE SUBCOMMITTEE ON
SUPERFUND, TOXICS, RISK AND WASTE MANAGEMENT
UNITED STATES SENATE**

July 31, 2002

Good morning Madam Chairman and Members of the Subcommittee. I am Marianne Horinko, Assistant Administrator of the Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency. I am pleased to appear today to discuss Superfund program progress, new program challenges including Superfund program funding issues, and what EPA is doing to address those challenges.

Administrator Whitman and the Bush Administration are fully committed to Superfund's mission, protecting human health and the environment by cleaning up our Nation's worst hazardous waste sites. Thanks to a decade of reforms launched by the first Bush Administration and continued by the previous Administration, the Superfund program has achieved dramatic success. In that same bipartisan spirit, we embrace the new issues facing the program as it matures.

SUPERFUND PROGRESS

The Superfund program continues to make progress in cleaning up hazardous waste sites. To date, 93 percent of the sites on the National Priority List (NPL) are either undergoing cleanup construction or have cleanup construction completed:

- * 815 Superfund sites have reached construction completion
- * 391 Superfund sites have cleanup construction underway

Further, more than 7000 removal actions have been completed at NPL and non-NPL sites. In Fiscal Year 2001, EPA completed construction at 47 Superfund sites. However, the decline in the number of NPL sites that reached construction completion in Fiscal Year 2001, as compared with Fiscal Year 2000, did not reflect the amount of cleanup construction underway at Superfund sites. EPA has maintained the number of construction projects underway at NPL sites, more than 730 per year, from Fiscal Years 1999 through 2001. The President's Fiscal Year 2003 budget request continues a commitment to clean up hazardous waste sites by maintaining EPA's budget for the Superfund program with a request of \$1.29 billion.

SUPERFUND CLEANUP COMMITMENTS AND COST RECOVERY

Fiscal Year 2001 produced a near record \$ 1.7 billion in Superfund cost recovery and cleanup commitments from responsible parties. EPA's enforcement program secured \$1.3 billion in cleanup commitments from responsible parties. An additional \$ 413 million was secured to reimburse EPA for past cleanup costs - - nearly \$300 million more than in Fiscal Year 2000. The cumulative value of responsible party commitments since the inception of the program now exceed \$20 billion. This Administration continues its strong commitment to the "polluter pays" principle, which has historically

generated 70 percent of non-Federal Superfund site cleanup from responsible parties. Under this Administration, EPA vigorously conducts searches for responsible parties at every Superfund site and is striving to maximize every opportunity to recover Agency cleanup costs from responsible parties.

BROWNFIELDS PROGRAM

EPA's brownfields program, through its grants, loans, and other assistance, continues to promote the cleanup, development and reuse of blighted, abandoned brownfield sites throughout the country. The brownfields program has successfully supplemented the cleanup and development efforts of states, Tribes and local governments. I am pleased to report that since its inception, EPA's brownfields cleanup program has leveraged more than \$3.7 billion in cleanup and redevelopment funds, and has generated more than 17,000 jobs. EPA funding has provided the resources to states, Tribes and local communities to assess more than 2,600 brownfield sites.

Thanks to the enactment of bipartisan brownfields legislation, we can expect to see even greater success by states, Tribes and local communities in reclaiming brownfield sites and encouraging the cleanup and reuse of sites by the private sector. EPA is now in the process of planning implementation of the provisions in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118). The Fiscal Year 2003 budget reflects the President's priorities and our commitment to cleaning up and revitalizing communities by doubling the brownfields budget to \$200 million.

REDEVELOPMENT AND REUSE

I have made land revitalization a top priority for the Office of Solid Waste and Emergency Response and it is an integral part of the way EPA is implementing all waste cleanup programs. Simply achieving cleanup is not enough. It is necessary to view a property in terms also of the future economic, recreational or ecological benefits it represents to those who live nearby. It is important that we build on our success in the Brownfields program and make land revitalization a part of the Agency's organizational culture. We are making progress in the Superfund program. More than 260 Superfund sites have been put back into reuse, generating more than 15,000 jobs and representing \$500 million in economic activity. While our fundamental mission remains to protect human health and the environment, we need to ensure that we fully consider a community's desired future land use for a property as we make cleanup decisions. We are working on tools to assist EPA managers and staff as they work closely with State, public and private stakeholders in facilitating property revitalization.

OIG RESPONSE ON SUPERFUND FUNDING NEEDS

By letter dated June 24, 2002, the EPA Inspector General (IG) responded to an inquiry by U.S. Representatives John Dingell and Frank Pallone on Superfund program funding needs. The IG response included a series of enclosures that contained Superfund site information provided by the Office of Solid Waste and Emergency Response (OSWER). The enclosures contained Superfund site information from OSWER databases as of May, 2002. The information represented a snap-shot in time and did not

reflect end of fiscal year data. The response indicated that EPA regions earlier in the year had estimated Superfund construction needs of approximately \$450 million, while EPA had \$224 million of appropriated funding available to allocate. The response did not take into account the funding from unliquidated obligations available for deobligation in expired contracts, interagency agreements, and grants that EPA and its regions are generating in the 3rd and 4th quarters of this fiscal year. This additional funding should total approximately \$40 million, for a total of \$264 million.

Overall, the funding levels for the Superfund program have remained relatively steady at \$ 1.3 to \$ 1.5 billion over the past 5 years. Superfund program funding has provided sufficient levels of funding to continue on-going construction work. Notwithstanding recent press reports, no Superfund sites have had cleanup construction suspended, and sites that pose an immediate risk to public health or the environment have been and will continue to be addressed by the Agency.

No Cuts to Superfund Site Funding

Recent media reports inaccurately attributed to the IG response a list of 33 Superfund sites where EPA purportedly cut funding. The IG response did not contain a list of 33 sites with funding cuts and never characterized any of the information in the response as representing funding cuts. An enclosure in the response listed all sites eligible for construction funding and identified those sites that had not yet received funding as of the date in May when the data was generated by OSWER.

How Superfund Program Funding Really Works

Inaccurate media reports have exhibited a fundamental misunderstanding of the Superfund program funding process. The Superfund cleanup construction program is constantly evolving and funding decisions are made over the course of the entire year - - not at the beginning of the fiscal year. Experience has taught us that the preliminary funding need estimates generated by EPA regions often represent levels that build in numerous contingencies that, over the course of the fiscal year, result in an over-estimate of the amount of funding needed to continue construction progress. Further, some sites identified at the beginning of the fiscal year by EPA regions as having construction funding needs are not actually ready to start construction before the end of the fiscal year for a variety of reasons; including changed site conditions, engineering or design modifications, or the identification of a viable responsible party to fund the work in place of EPA. Therefore, many of the construction funding decisions that will be made by the Agency during this fiscal year, had not been made at the time the IG response was released.

Many of the funding decisions in the Superfund program are historically made in the 3rd and 4th quarters of the fiscal year because there is a Congressional hold back of \$100 million of cleanup funding in the EPA appropriations bill until September 1st, and monies deobligated from expired contracts, interagency agreements, and grants generally become available during this time frame. These monies are used to fund Superfund construction projects before the end of the fiscal year.

Following Agency practice, EPA has made additional Superfund funding decisions at sites since

the release of the IG response. Further, as expected, some sites identified early in the year by EPA regions as needing construction funding, will not be ready for construction funding by the end of this fiscal year. Of the 33 Superfund sites reported by the media as purportedly having their funding cut, 8 sites have been funded for new construction work, 3 sites have been funded to continue on-going construction work, and 6 sites will not need construction funding in this fiscal year. Not all of the sites have received money to date, and likely will not receive funding until September of this year. The Agency will make further site funding decisions as monies become available from the regional efforts to deobligate monies from expired contracts, interagency agreements, and grants.

NEW CLEANUP CHALLENGES

As the Superfund program continues into its third decade, new challenges must be met to continue the progress in cleaning up hazardous waste sites. In 2000, EPA had anticipated the potential for a reduction in achieving site construction completions. The Superfund process, from site listing to cleanup construction, on average has taken roughly 8 to 10 years. Decisions made 5 years before a site ever reaches the construction phase, for instance delaying the Remedial Investigation / Feasibility Study (RIFS), will have an impact on when that site reaches construction completion many years later. This is the current situation we face in the Superfund program.

The reduction in construction completions has resulted from a variety of factors, including decisions made years ago on funding priorities; the size and number of construction projects at remaining

non-construction complete sites on the NPL; and the need to balance competing environmental priorities within the Superfund program. In prior years, EPA focused resources on Superfund sites that needed less construction work and that were further along in the cleanup process, thus creating a backlog of more difficult sites and sites with significant years of construction work remaining.

Remaining Sites Larger and More Complex

The remaining number of Superfund sites that have not reached the completion stage includes area-wide ground water sites, mining sites, sediment sites, and federal facility sites. The size and complexity of these remaining sites generally indicate longer project durations and increased costs required to complete cleanup construction. There is now a greater number of federal facilities and very large and complex sites (sites exceeding \$50 million in cleanup costs) as a percentage of NPL sites not yet completed than ever before. Of the remaining 675 final NPL sites not construction complete, 138 are federal facilities and an additional 93 sites are very large and complex sites.

Fewer Sites are Candidates For Completion

The pool of candidate sites for construction completion has become much smaller, thus having a significant impact on the number of sites that reach construction completion. The vast majority of Superfund sites were listed in the first decade of the program. Many of these sites have reached construction completion. As site listings significantly declined in the 1990's, so did the pool of

candidates for construction completion. It has historically taken roughly 8 to 10 years to complete Superfund sites, therefore sites listed after 1994 are, for the most part, unlikely candidates for construction completion. The Superfund program has final listed 190 sites on the NPL over the past seven years. Adding those sites to the number of federal facility sites (138) and very large/complex sites (93) that are not yet construction complete totals 421 sites. Subtract that number from the total number of sites not yet construction complete (675) and the Superfund program is faced with a relatively small pool of likely construction completion candidates (254) - as opposed to the more than 1200 sites final listed in the first decade of the Superfund program (1983-1990).

SUPERFUND PIPELINE MANAGEMENT REVIEW

Although the number of Superfund sites completing construction in a given year is being affected by program decisions made years before, EPA is looking for new ways to improve program performance. The Agency has initiated a comprehensive review of all Superfund projects in or approaching the most expensive phase of our project pipeline, construction. After completion of this analysis and implementation of some challenging decisions, EPA intends to manage toward creating an optimal balance between the achievement of risk reduction, construction progress, and beneficial reuse at Superfund sites. A draft three year plan is scheduled to be completed at the end of the summer.

NACEPT PROCESS

EPA has launched a public dialogue through the National Advisory Council on Environmental

Policy and Technology (NACEPT), a Federal advisory committee comprised of a broad cross-section of stakeholders, that will examine the role of the Superfund program in addressing very large/complex sites, the appropriate role of listing sites on the NPL as one of many tools to address contaminated sites, and strategies to improve program effectiveness and efficiency through coordination with States, Tribes, and the public. The first meeting of the NACEPT Superfund Subcommittee was held in June. EPA will work closely with the Environment and Public Works Committee as the NACEPT expert panel debates these important public policy issues.

CONCLUSION

EPA will continue its efforts to improve Superfund program performance and meet the many new challenges facing the Agency in cleaning up toxic waste sites. The Superfund program will continue to clean up the Nation's worst toxic waste sites, to protect public health and the environment, and provide opportunities for reuse and redevelopment to communities across the country. The success of the Superfund program can be attributed in large part to the bipartisan and broad based consensus that developed for the common sense legislative and administrative reform of the program over the past decade. By working together in a non-partisan, problem solving fashion, I am convinced that we can continue that success. The President is fully committed to the Superfund program's success and toward fashioning a sustainable future course for the program as it continues into its third decade. EPA and the Administration look forward to working with the members of this committee and the Congress in the months and years ahead as we strive to meet our common goal of protecting public health and the environment.

